

REMARKS

I. Status of the Claims

Claims 1-3, 5-13, and 15-20 are currently pending in the Application. Claims 1 and 12 are in independent format.

The present Response is intended to be fully responsive to the rejections raised by the Examiner and is believed to place the application in condition for allowance. Further, Applicant does not concede any of the Examiner's comments not particularly addressed. Favorable reconsideration and allowance of the application is respectfully requested.

II. Responses to Section 103(a) Rejections

The Examiner rejected claims 1-3, 6-9, 11-13, 16-17, and 19-20 under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent App. Pub. No. 2003/0100312A1 ("Takahashi") and further in view of U.S. Patent App. Pub. No. 2006/0085755A1 ("Arai"). The Examiner also rejected claims 5, 10, 15, and 18 under section 103(a) as being allegedly unpatentable over Takahashi and further in view of Arai and U.S. Patent No. 6,625,447 ("Rossmann"). Applicant respectfully traverses.

In response to Applicant's arguments, the Examiner stated that "Takahashi does indeed teach the device comprises a mobile station (see fig. 1, items 10-1 and 10-2)." Office Action, Feb. 9, 2009, at 7. Applicant respectfully submits, however, that even if Takahashi "teach[es] a mobile station" as asserted by the Examiner, neither reference cited by the Examiner discloses or reasonably suggests "maintaining a set of data comprising a plurality of records, wherein each record includes at least the following fields: . . . (iii) device capability information" and "querying the set of data to uncover at least one data-reference (comprising a URI) that the set of

data correlates with both (i) the current location of the device and (ii) the one or more capabilities of the device." In other words, neither reference discloses or reasonably suggests (i) a set of data with records that include mobile station capability information or (ii) querying the set of data to uncover a data reference the set of data correlates with both the current location of the mobile station and the one or more capabilities of the mobile station, as recited in Applicant's currently pending claims.

In the pending Office Action, the Examiner acknowledged deficiencies of Takahashi:

Takahashi does not specifically disclose (i) a data reference comprising a uniform resource identifier ("URI"), (ii) location information, and (iii) device capability information, querying the set of data to uncover at least one data-reference (comprising a URI) that the set of data correlates with both (i) the current location of the device and (ii) the one or more capabilities of the device.

Office Action, Feb. 9, 2009, at 3. The Examiner then alleged that Arai made up for these deficiencies:

Arai . . . teaches (i) a data reference comprising a uniform resource identifier ("URI") (see fig.2, column 254), (ii) location information (see fig.2, column 256), and (iii) device capability information (see fig.2, column 252, also see Abstract), querying the set of data to uncover at least one data-reference (comprising a URI) (see fig.2, column 254) that the set of data correlates with both (i) the current location of the device (see fig.2, column 256) and (ii) the one or more capabilities of the device (see fig.2, column 252, also see Abstract).

Office Action, Feb. 9, 2009, at 3. The Examiner provided no further support for this assertion and concluded the obviousness rejection by stating that:

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Arai into the system of Takahashi in order to provide a contents transmitting unit for collecting contents according to a request from a client from a database in which contents information have been stored on the basis of the request and sending them to the client (see Arai, Abstract).

Office Action, Feb. 9, 2009, at 3-4.

Applicant respectfully submits, however, that the Examiner's rejection in light of Takahashi and Arai lacks proper factual underpinnings and that the combination of these references fails to reasonably or logically lead to the claimed embodiments. At a minimum, Arai is not directed to a mobile station. Because each of Applicant's independent claims recite "wherein the device comprises a mobile station," Applicant respectfully submits that Arai cannot teach, for instance, (1) device capability information or (2) querying the set of data to uncover at least one data-reference (comprising a URI) that the set of data correlates with both (i) the current location of the device and (ii) the one or more capabilities of the device. Moreover, the Examiner failed to clearly articulate how either reference, alone or in combination, discloses or reasonably suggests these recitations. Therefore, for at least this reason, the Examiner's rejection of Applicant's independent claims lacks the rational underpinning necessary to establish *prima facie* obviousness under M.P.E.P. § 2142.

Under M.P.E.P. § 2142, the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) with rational underpinning to support the conclusion of obviousness. In particular, section 2142 explains:

The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

Applicant respectfully submits again that the Examiner's rejections related to Arai are mere conclusory statements that lack the articulated reasoning and rational underpinnings required under *KSR* to support a legal conclusion of obviousness. Applicant acknowledges that in making the noted rejections, the Examiner cited to a figure and the abstract of Arai. Applicant

respectfully submits, however, that how the Examiner could interpret the cited figure and abstract as teaching Applicant's claim recitations is not clear from Arai, and the Examiner failed to articulate any reasoning to support such an interpretation. The Examiner instead relied solely on mere conclusory statements, in clear violation of *KSR*.

For at least these reasons, Applicant submits that the independent claims are allowable. In addition, without conceding the Examiner's assertions regarding the dependent claims, Applicant submits that the dependent claims are allowable for at least the reason that they depend from the allowable independent claims.

CONCLUSION

In light of the above, Applicant respectfully submits that the present application is in condition for allowance and respectfully requests notice to this effect. The Examiner is requested to contact Applicant's representative below at (312) 913-0001 if any questions arise or if he may be of assistance to the Examiner.

Respectfully submitted,

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